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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,025	03/30/2004	Kentaro Fujibayashi	392.1887	2804

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EXAMINER

KASENGE, CHARLES R

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,025

Applicant(s)

FUJIBAYASHI ET AL.

Examiner

Charles R. Kasenge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/26/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/18/05 have been fully considered but they are not persuasive. The Office reasserts that Alverson does disclose NC format programs that are both executed periodically (col. 6 and 7, lines 63-67 and 1-15) and executed according to an execution command (col. 6, lines 39-62). Alverson establishes that the programs are stored in a storage means (col. 5, lines 20-26) and then discloses being able to execute these programs (col. 5, lines 40-63). Therefore, the Office interprets Alverson to implicitly disclose storing both types of programs in a way that a distinction is possible between them. If this were not the case, then Alverson's processor would not be able to successfully call the correct program when it periodically executes a program. A distinction must inherently exist that lets the processor know this is a program that it must execute periodically.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Alverson et al. U.S. Patent 6,427,098. Alverson discloses a controller for controlling a machine according to control programs which are created in an NC program format (col. 3, lines 42-51), comprising: storage means for storing the control programs (col. 5, lines 56-63 and Fig. 3, 180) created in the

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NC program format in a way that distinguishes between a program to be executed periodically and a program to be executed according to an execution command (col. 6 and 7, 63-67 and 1-16); conversion means for analyzing the programs stored in the storage means and converting the programs into programs in a form executable by the controller (col. 5, lines 40-63); and execution means for periodically executing the program to be executed periodically, converted by the conversion means into the executable form, from the time when power to the machine is turned on until the time when the power is shut down (col. 6 and 7, 63-67 and 1-16). The Office interprets Alverson's "interpolation control routines" as the programs to be executed periodically (Fig. 3, 212) and the "block processor routines" as the programs to be executed according to an execution command (Fig. 3, 214). Both routines are stored in different places in memory, therefore they are distinguished by the different places of storage in memory (Fig. 3, 180). The Office interprets that executing the program only when the machine is on as inherent to machine control.

Referring to claims 2-6 and 12-16, Alverson discloses the controller according to claim 1, wherein the program to be executed periodically controls a sequence of the machine, the machine being a machine tool or an industrial machine (col. 6, lines 20-38). Alverson implicitly discloses the controller according to claim 2, wherein the program for sequence control includes signal names of input/output signals for the machine and the controller, addresses of the input/output signals, and control commands for the input/output signals (col. 6, lines 20-38). Alverson implicitly discloses the controller according to claim 3, wherein the signals names and addresses of the input/output signals are coded with alphabetic characters and numeric characters (col. 6, lines 20-38). Alverson discloses the controller according to claim 2, wherein the program

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for sequence control includes a condition and a control command executed according to the condition (col. 4 and 5, lines 63-67 and 1-8). Alverson discloses the controller according to claim 1, wherein the program to be executed according to said execution command is a program that controls motion of an axis of the machine (col. 9, lines 23-25).

Referring to claims 7-10 and 17-20, Alverson discloses the controller according to claim 1, wherein said storage means stores the program in the executable form, which has been obtained by converting the program to be executed periodically by means of the conversion means, together with, or instead of, the program to be executed periodically (col. 6 and 7, 63-67 and 1-16). Alverson discloses the controller according to claim 1, wherein the conversion means converts the program to be executed periodically into the program in the executable form and stores the converted program in the storage means either when the machine is turned on or when the program is originally stored in the storage means (col. 6 and 7, 63-67 and 1-16). Alverson discloses the controller according to claim 1, wherein the program to be executed periodically is distinguished from the program to be executed according to an execution command by program names of the programs (col. 6 and 7, 63-67 and 1-16). Alverson discloses the controller according to claim 1, wherein the program to be executed periodically is distinguished from the program to be executed according to an execution command by affixing a specific symbol to each command coded in the program to be executed periodically (col. 6 and 7, 63-67 and 1-16; Fig. 3, 212 and 214).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

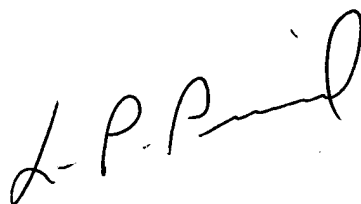
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kasenge whose telephone number is 571 272-3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CK
September 13, 2005

A handwritten signature in black ink, appearing to read 'L. P. Picard', written in a cursive style.

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100